

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1135V

Filed: May 26, 2017

UNPUBLISHED

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MARK DAVID LUNDIN,

\*

Petitioner,

\*

v.

Damages Decision Based on Proffer;  
Influenza ("Flu"); Shoulder Injury  
Related to Vaccine Administration  
("SIRVA");  
Special Processing Unit ("SPU")

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*

Respondent.

\*

\*

\*\*\*\*\*  
*Paul Bekman, Bekman, Marder & Adkins, LLC, Baltimore, MD, for petitioner.  
Ann Martin, U.S. Department of Justice, Washington, DC, for respondent.*

## DECISION AWARDING DAMAGES<sup>1</sup>

**Dorsey**, Chief Special Master:

On September 13, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that he suffered a shoulder injury related to vaccine administration ("SIRVA") following influenza ("flu") vaccinations on September 25, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 21, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for a SIRVA. On May 25, 2017, respondent filed a proffer on award of compensation ("Proffer") indicating petitioner should be awarded \$71,012.26. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$71,012.26 in the form of a check payable to petitioner, Mark David Lundin.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

s/Nora Beth Dorsey

Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

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MARK DAVID LUNDIN,	)	
	)	
Petitioner,	)	
	)	No. 16-1135V
v.	)	Chief Special Master Dorsey
	)	ECF
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

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**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

**I.      Items of Compensation**

For purposes of this proffer, the term “vaccine-related” is as described in Respondent’s Rule 4(c) Report, filed on March 20, 2017, conceding entitlement in this case. Based upon the evidence of record, respondent proffers that petitioner should be awarded \$71,012.26, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a) for his vaccine-related injury.<sup>1</sup> Petitioner agrees.

**II.     Form of the Award**

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$71,012.26 in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

C. SALVATORE D'ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
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Torts Branch, Civil Division

s/ Ann D. Martin  
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DATED: May 25, 2017